

REMARKS**Response to Election/Restrictions**

The Examiner has set forth a restriction to one of the following inventions under 35 U.S.C. §121:

- I. Claims 1-23, drawn to a device, classified in class 600, subclass 201.
- II. Claims 24-31, drawn to a method, classified in class 606, subclass 193.

In response, applicants confirm the election of claims 1-23.

The Examiner has also set forth an election to one of the following species:

- a. Species A: drawn to Figure 1
- b. Species B: drawn to Figure 6

In response, applicants hereby elect Species A shown in Figure 1.

However, in view of the amendments to claims above applicants believe that the election requirement has been mooted. All of the pending independent claims are directed to the feature of a mechanism to adjust the distal location of the occluding element with respect to the distal shaft section. That being the case, the independent claims would read on both the species A and B. The major difference between the species of Fig. 1 and the species of Fig. 6 is that the occluding element in Fig. 1 is capable of adjusting the orientation whereas the orientation of the occluding element of Fig. 6 is fixed.

Response to Claim Rejections Under 35 USC §112

Claims 9, 10, 14 and 16-23 were rejected by the Examiner under 35 U.S.C. §112. However, in view of the above amendments, applicants believe that the rejections are moot.

Response to Claim Rejections under 35 USC § 102

Claims 1-7, 10, and 11 are rejected under 35 U.S.C. §102(b) as being anticipated by Schifano (U.S. Pat. No. 5,591,173). Schifano describes an umbilical cord cutting device having a pair of spring loaded pressure applying elements mounted on the distal end of distal shaft sections. However, the movement of the pressure applying elements is away from the distal end of the distal shaft section toward the other pressure applying element, not distal to the distal end of the distal shaft sections as called for in the present claims. That being the case, the reference cannot anticipate these claims.

Claims 1 and 9 were rejected under 35 U.S.C. §102(b) as being anticipated by Santilli (U.S. Pat. No. 6,610,074). Santilli describes a clamping device having a clamping assembly with one clamping member secured to the distal end of a first shaft and a second clamping member secured to the distal end of a second shaft pivotally connected to the first shaft. The clamping members of the clamping assembly are pivotally. The device described by Santilli does not have a mechanism to extend at least part of a clamping member from a first position distally to a second position away from the first distal shaft section. Only the orientation of Santilli's clamping members are changed, not the distance from the distal shaft section. As a result, Santilli cannot anticipate the present claims.

Response to Claim Rejections under 35 USC § 103


Claims 12-21, and 23 are rejected under 35 U.S.C. §103(a) as being unpatentable over Schifano ('173) alone or in combination with Fogarty et al or Hossack et al.. However, neither Fogarty or Hossack teach or suggest any of the features which

Schifano fails to teach, so the combination does not teach all the features of the claims as amended above.

Conclusion

Applicants believe that the pending claims are directed to patentable subject matter. Reconsideration and an early allowance are earnestly solicited.

Respectfully submitted,

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